



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

CORAM:

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 4196 2017

and

W.M.P. (MD) No. 3346 of 2017

A. Isaac Abraham

... Petitioner

Vs.

1. The Sub-Registrar,
K. Sathanur, Sub Registrar Office,
Tiruchirapalli.

2. Babu M. Abraham

3. Rajan J. Abraham

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in registering the impugned unilateral cancellation deed of release in Document No. 4796/09, dated 30.12.2009 executed by the respondents 2 and 3 and quash the same and further direct the first respondent to remove the entry made regarding the unilateral cancellation deed of release in Document No. 4796 of 09, dated 30.12.2009 in Book No. 1 of his office.

For Petitioner : Mr. H. Arumugam

For R1 : Mr. M. Murugan
Government Advocate

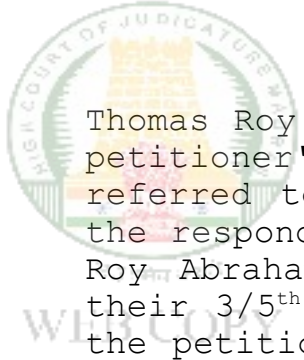
For R2 & R3 : Mr. C. Deepak

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for the first respondent.

2. The learned counsel appearing for R2 and R3 sought time to file his counter affidavit. But this Court is not inclined to accept the said request, because the issue on hand is covered by the decision of the Hon'ble Full Bench.

3. The writ petitioner's father purchased the subject properties through various sale deeds. He passed away on 29.08.2002. He was survived by legal heirs namely, the writ petitioner, his mother, respondents 2 and 3 herein and another brother by name



Thomas Roy Abraham and sister by name Susan Vargheese. The petitioner's mother also passed away on 13.09.2004. The legal heirs referred to above had jointly inherited the properties. While so, the respondents 2 and 3 herein and the other brother by name Thomas Roy Abraham executed a release deed on 10.12.2009 in respect of their 3/5th undivided share over the properties in question. Thus, the petitioner became the owner of 4/5th share and the other sister by name Susan Vargheese was entitled to 1/5th share.

4. It is the case of the petitioner that the release was acted upon and the possession was also handed over to the writ petitioner. While so, the respondents 2 and 3 herein had unilaterally executed a deed of cancellation dated 30.02.2009. This unilateral cancellation is put to challenge in this writ petition.

5. The case on hand is squarely covered by the decision of the Hon'ble Full Bench reported in **2011 (1) Law Weekly 673 (M/s. Latif Estate Line India Limited Vs. Hadeeja Ammal and others)**. The Hon'ble Full Bench held as follows:-

"58. It can also not be overlooked or ignored that a unilateral cancellation of a sale deed by registered instrument at the instance of the vendor only encourages fraud and is against public policy. But there are circumstances where a deed of cancellation presented by both the vendor and the purchaser for registration has to be accepted by the Registrar if other mandatory requirements are complied with. Hence, the vendor by the unilateral execution of the cancellation deed cannot annul a registered document duly executed by him as such an act of the vendor is opposed to public policy."

6. Even though the Hon'ble Full Bench decision pertains to unilateral cancellation of sale deed, the same principle will apply to unilateral cancellation of settlement deed or release deed. Therefore, the registration impugned in this writ petition stands quashed. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar (CS)

To
The Sub-Registrar,
K. Sathanur, Sub Registrar Office,
Tiruchirapalli.



+1cc to Mr.H.Arumugam, Advocate, SR.No.
+1cc to Mr.C.DEEPAK, Advocate, SR.No.63456
+1cc to M/s.Special Government Pleader, SR.No.63327

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and
W.M.P. (MD) No.3346 of 2017

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